IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No 243 of 1993

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH
and
Hon'ble MR.JUSTICE D.A.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

COMMISSIONER OF INCOME-TAX

Versus

RUSTOM MILLS & INDUSTRIES LTD

Appearance:

1. INCOME TAX REFERENCE No. 243 of 1993

MR AKIL KURESHI with MR MANISH R BHATT for Petitioner

MR SN SOPARKAR for Respondent No. 1

CORAM : MR.JUSTICE M.S.SHAH
and
MR.JUSTICE D.A.MEHTA

Date of decision: 06/11/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.S.SHAH)

In this reference at the instance of the revenue,

the following question has been referred for our opinion in respect of assessment year 1976-77 :-

"Whether the Appellate Tribunal is right in law and on facts in directing the ITO to allow interest u/s. 214 of the I.T. Act upto the date of order giving appeal effect and on the amount of refund as finally determined ?"

2. We have heard Mr Akil Kureshi, learned counsel for the revenue and Mr SN Soparkar with Mr MK Kaji, learned counsel for the respondent-assessee.

3. The Tribunal has relied on the decision of this Court in Bardolia Textile Mills vs. CIT, 151 ITR 389 for directing the Income-tax Officer to allow interest under Section 214 of the Act upto the date of the order giving appeal effect and on the amount of refund as finally determined. At the hearing of this reference, the learned counsel for the parties point out that the aforesaid view is disapproved by the Apex Court in Modi Industries Ltd. vs. CIT, (1995) 216 ITR 759.

4. Following the aforesaid decision of the Apex Court, our answer to the question referred to us is in the negative i.e. in favour of the revenue and against the assessee.

5. The reference accordingly stands disposed of with no order as to costs.

(M.S. Shah, J.)

(D.A. Mehta, J.)

sundar/-